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April 4, 2018

The Honorable Chris Kannady  
Chair  
Judiciary Committee  
Oklahoma House of Representatives  
2300 N. Lincoln Blvd.  
Oklahoma City, OK 73105

The Honorable Tim Downing  
Vice Chair  
Judiciary Committee  
Oklahoma House of Representatives  
2300 N. Lincoln Blvd.  
Oklahoma City, OK 73105

**Re: Oppose SB 1140, Which Would Allow Discrimination by State-Funded Child-Placing Agencies**

Dear Chair Kannady and Vice Chair Downing:

On behalf of the Oklahoma chapters, members, and supporters of Americans United for Separation of Church and State, I urge you to oppose SB 1140. This bill would allow state-funded child-placing agencies to use religion to justify refusing to place children in foster and adoptive homes. Freedom of religion is a fundamental American value that is protected by the U.S. and Oklahoma Constitutions. It allows all of us the freedom to believe or not as we see fit, but it does not allow anyone to use religion as an excuse to harm or take away the rights of others. Religion is no justification for denying children homes and discriminating against prospective parents. Accordingly, the bill must be rejected.

Child-placing agencies must provide services based solely on what is in the best interest of the child. SB 1140, however, undermines this bedrock child welfare standard by putting the religious beliefs of agencies ahead of the best interests of the children whom the agencies contract with the state to serve. This bill would allow state-funded child-placing agencies to deny children the loving, stable, and permanent homes they deserve.

Allowing adoption and foster care providers to use religion to refuse to serve children and qualified prospective parents would violate the Establishment Clause of the U.S. Constitution in two main ways. First, it would create a religious exemption that results in real harm to children and prospective parents.<sup>1</sup> The bill would harm the human dignity of the parents, while at the same time, increasing both wait times for children in care as well as the number of youth leaving care without finding their forever family.

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<sup>1</sup> See e.g., *Cutter v. Wilkinson*, 544 U.S. 709, 720, 722, 726 (2005) (exemption may not “impose unjustified burdens on other[s]”).

Second, the bill would grant discretionary powers to state-funded foster and adoption providers and allow them to place a religious litmus test on whom they serve and how they serve them.<sup>2</sup>

SB 1140 is also unnecessary. The bill is not needed to allow faith-based groups to provide foster and adoption care services—the state already partners with these organizations to provide these services. Passing the bill, however, would not only sanction discrimination against prospective parents—most often LGBTQ parents—but also allow taxpayer-funded organizations to refuse to place children in a safe and happy family.

Although Americans United supports appropriately tailored accommodations to protect against government actions that substantially burden religious exercise, the exemption in SB 1140 goes too far. The enclosed memorandum provides more detailed analysis of the bill's troubling consequences.

I urge you to oppose SB 1140.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nikolas Nartowicz".

Nikolas Nartowicz  
State Legislative Counsel

cc: Members of the House Judiciary Committee

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<sup>2</sup> See *Larkin v. Grendel's Den*, 459 U.S. 116, 125-27 (1982) (government's discretionary power may not be "delegated to or shared with religious institutions").